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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/722,890	11/26/2003	Julian P. Trangsrud	20030331.ORI	2877
23595	7590	09/04/2007	EXAMINER	
NIKOLAI & MERSEREAU, P.A. 900 SECOND AVENUE SOUTH SUITE 820 MINNEAPOLIS, MN 55402			LAUX, JESSICA L	
ART UNIT		PAPER NUMBER		
3635				
MAIL DATE		DELIVERY MODE		
09/04/2007		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/722,890	TRANSRUD, JULIAN P.
	Examiner Jessica Laux	Art Unit 3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 30 July 2007.  
 2a) This action is FINAL.      2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-11 is/are pending in the application.  
 4a) Of the above claim(s) 4-11 is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-3 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 26 November 2003 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_  
 5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_

## DETAILED ACTION

Acknowledgment is made of the RCE filed 07/30/2007. Accordingly the claims have been amended.

### ***Response to Arguments***

Applicant's arguments filed 07/30/2007 have been fully considered but they are not persuasive, see below.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hardy, Jr. et al. (20040031228) in view of Sorkin (6684595) or D.F. Yelsma (3471987).**

Regarding claim 1: Hardy discloses a rebar spacer comprising:  
a clip (30) having a bottom portion with a semicircular rebar cradling portion (generally indicated at 50B in figures 4 and 13);  
a pair of columns (the column just below the arrow at 52B as seen in figures 4 and 13) one on either side of the semicircular rebar cradling portion and extending upward therefrom;  
a cross portion (generally at 51B of figures 4 and 13) on each column extending toward the opposing column;

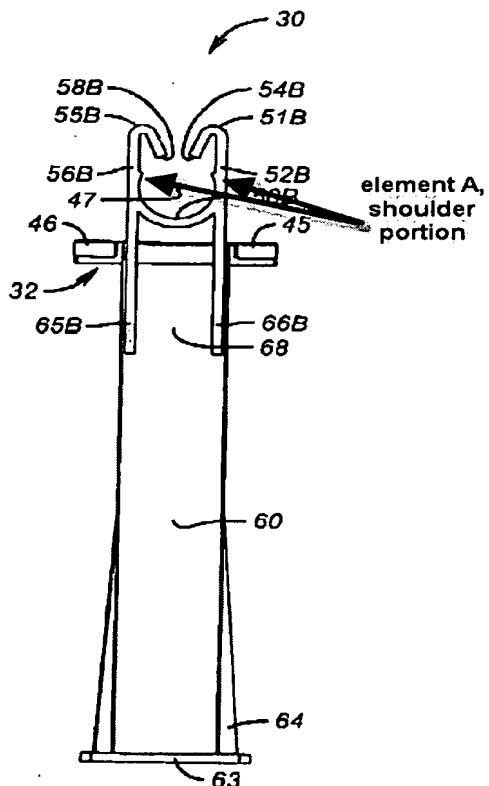
a straight arm (generally at 53B of figures 4 and 13) extending angularly downward from each cross portion toward the axis of the radius of the semicircular rebar cradling portion and having an end (54B and 58B as seen in figures 4 and 13) proximate a rebar placed in the rebar cradling portion;

a shoulder portion (A, see annotated drawing below) on each side of the semicircular rebar cradling portion, between the semicircular rebar cradling portion and the columns, each shoulder portion having a width at least the width of the arm, to allow the arm to be recessed over the shoulder;

a base portion (generally at 68 as seen in figure 4) attached to the base of the clip for supporting the clip at a desired height.

Hardy does not expressly disclose the above clip centered over the middle of the base portion, however Hardy does does disclose two such clips (which in combination comprise a rebar spacer encompassing the above mentioned features) that is centered of the length and width of the base.

Additionally, both US Patents to Sorkin or Yelsma disclose a rebar space comprising a base and a clip where the clip is centered over the length and width of the base. It would have been obvious at the time the invention was made to modify the spacer of Hardy to have only **one** clip centered over the length and width of the base as disclosed by Sorkin or Yelsma for installation situations where only one clip is needed (as it is known there are variety of installation situations requiring various combinations of features of a rebar spacer) as such a feature is more cost effective for the materials as there is less material waste (a clip that doesn't need to be used).



**FIG. 6**

Regarding claim 2: The rebar spacer as in claim 1 above, wherein the base portion has a flat base (61), a left wall (59) extending from the flat base to the bottom of the clip and center wall (64) extending from the base to the bottom of the clip and a right wall (60) extending from the flat base to the bottom of the clip.

Regarding claim 3: The rebar spacer as in claim 2 above, wherein the left and right walls are slanted inward from the edge of the flat base to the sides of the clip (figures 4 and 13), and the center wall is perpendicular to the flat base and the base of the clip (figures 4 and 13).

***Conclusion***

All claims are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114 and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to entry under 37 CFR 1.114. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action after the filing of a request for continued examination and the submission under 37 CFR 1.114. See MPEP § 706.07(b).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jessica Laux whose telephone number is 571-272-8228. The examiner can normally be reached on Monday thru Friday, 6:30am to 2:30pm (est).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on 571-272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
/J. CHAPMAN/  
PRIMARY EXAMINER  
ART UNIT 3635

JL  
08/28/2007